

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARIE LYNCH,

Plaintiff,

-against-

MTA METRO-NORTH RAILROAD,

Defendant.

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/24/2023

22-CV-4335 (JHR) (BCM)

ORDER**BARBARA MOSES, United States Magistrate Judge.**

This action was referred to me for settlement on March 3, 2023. (Dkt. 15.) On March 15, 2023, I issued an order scheduling a settlement conference for June 14, 2023. (Dkt. 18.) That Order required the parties to "conduct at least one good-faith settlement discussion, in person or by telephone," and to "convey to each opposing party at least one good-faith settlement demand or offer," before submitting their confidential settlement statements to chambers. (*Id.* ¶ 2.) The settlement statements were due "[n]o later than one week (seven calendar days) before the conference" (*id.* ¶ 3), and were required to include "[a] brief description of settlement negotiations to date, including the date and time of the parties' last good-faith settlement discussion and the terms of each party's most recent demand or offer." (*Id.* ¶ 3(c).) At the same time, each party was required to submit an Acknowledgement Form confirming that its lead trial counsel would attend the settlement conference, accompanied by the client (if an individual) or by a client representative who is "a decision-maker with knowledge of the case and responsibility for determining the amount of any ultimate settlement; that is, a person who decides what settlement authority to give to counsel, not a person who has received, or must seek, authority from someone else within the organization." (*Id.* ¶¶ 1(a), 4.) These requirements are designed to ensure that the settlement conference is as productive as possible, particularly since "[t]he Court normally holds only one settlement conference per case." (*Id.* ¶ 2.)

Since the issuance of the initial settlement conference scheduling order, the Court has adjourned the conference four times – each time, at the request of one or both parties – rescheduling it for July 20, then August 5, then September 20, and, most recently, for October 26, 2023. (*See* Dkts. 27, 30, 33, 35.) With each adjournment, the Court has reminded the parties of their obligation to submit updated settlement letters and their deadline (one week prior to the rescheduled conference) for doing so. However, as of Monday morning, October 23, 2023, neither party had submitted the required settlement letter in advance of the October 26, 2023 conference, requiring chambers to contact counsel by email and telephone to remind them of that obligation.

When the settlement letters arrived – by email, Monday afternoon – they revealed that no fresh settlement discussions had taken place between the parties since some time prior to the last adjournment – at which point, according to defendant, it had received a "global" demand" from plaintiff (to settle this action together with another case), but was still awaiting plaintiff's demand with respect to this action alone. Moreover, defendant has not submitted its updated Acknowledgment Form with respect to the October 26 conference. I note as well that although discovery is scheduled to close on October 25, 2023 (Dkt. 31), the parties have requested a further

extension, to December 30, 2023. (Dkt. 36.) In their extension request, the parties state that they "entered into settlement discussions, however settlement was not possible." (*Id.*)

The Court cannot keep its October 26 calendar open for the settlement conference in this case indefinitely. Nor does the Court wish to waste the parties' time if, for whatever reason, they are not yet in a position to make good use of the opportunity. Consequently, the parties are hereby advised that if they wish to conduct a judicially supervised settlement conference on October 26, 2023, they must submit a *joint* updated confidential settlement letter via email, **by 5:00 p.m. on Tuesday, October 24, 2023**, that confirms that they have met "in person or by telephone" to exchange "at least one good-faith settlement demand or offer," and reports the substance of the most recent demand and offer. Additionally, **by 5:00 p.m. on Tuesday, October 24, 2023**, defendant must submit an updated Acknowledgment Form with respect to the October 26 conference.

If the parties cannot meet this deadline, the Court will once again adjourn the settlement conference.

Dated: New York, New York
October 24, 2023

SO ORDERED.

A handwritten signature in blue ink, appearing to read 'Barbara Moses', is written over a horizontal line.

BARBARA MOSES
United States Magistrate Judge